IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2596 OF 2006

Namdeo Dhondiba Parve & Anr. .. Petitioners

Versus

Ramdas Sambhaji Vidhate & Anr. .. Respondents

Mr.G.S.Godbole for petitioners

Mr.U.B.Nighot for respondent No.1.

CORAM : S.C.DHARMADHIKARI, J

DATE : 23rd February 2007.

P.C.

. Mr.Godbole, learned Advocate for the petitioner states that the impugned order is based upon an application Exh.25 in Regular

Darkhast No.20 of 2004.

2. After arguing this matter for some time, learned Advocate seeks liberty to withdraw the application (Exh.25) before the Trial Court/Executing Court with liberty to file appropriate proceedings. In the light of this statement of the learned Advocate, it is not necessary to scrutinise the legality and validity of the impugned order.

3. Application Exh.25 is thus allowed to be withdrawn with liberty to adopt appropriate proceedings. In the light of withdrawal of the application with liberty, petition stands disposed of. All contentions of both sides on the maintainability of the proceedings or otherwise are expressly kept open.

4. Further needless to clarify that since the order is passed on Application Exh.25,

withdrawal of that application itself would entail in the order impugned not surviving and, therefore, the apprehension of the learned Advocate for the petitioner that the observations would come in the way of his instituting proceedings afresh, is not well founded. Petition disposed of accordingly.

(S.C.Dharmadhikari, J)